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6 **UNITED STATES BANKRUPTCY COURT**

7 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

8 In re) Bankruptcy Case No. 09-51700
9 JACINTO MANCILLAS and MARIA ELENA) RS No. WGM-2169
10 MANCILLAS,) Chapter 13
11 Debtors.)
12 _____

13 EMC MORTGAGE CORPORATION as) **EMC MORTGAGE'S MOTION FOR RELIEF**
14 servicer for WELLS FARGO BANK,) **FROM AUTOMATIC STAY**
15 NATIONAL ASSOCIATION as Trustee for the)
Certificateholders of STRUCTURED ASSET)
MORTGAGE INVESTMENTS II INC.,)
GREENPOINT MTA TRUST 2005-AR3,)
MORTGAGE PASS-THROUGH)
CERTIFICATES, SERIES 2005-AR3, and its)
successors and/or assignees,)
16)
17 Movant,)
18 vs.)
19 JACINTO MANCILLAS and MARIA ELENA)
MANCILLAS, Debtors, and DEVIN)
20 DERHAM-BURK, Trustee,)
21 Respondents.)
22 _____

HEARING DATE:

DATE: September 30, 2009

TIME: 3:00 PM

CTRM: 3070

23 **TO THE HONORABLE MARILYN MORGAN, UNITED STATES BANKRUPTCY COURT**
24 **JUDGE, THE DEBTORS, THE DEBTORS' COUNSEL, THE TRUSTEE AND OTHER**
25 **INTERESTED PARTIES:**

26 **PLEASE TAKE NOTICE** that EMC MORTGAGE CORPORATION as servicer for
27 WELLS FARGO BANK, NATIONAL ASSOCIATION as Trustee for the Certificateholders of
28 STRUCTURED ASSET MORTGAGE INVESTMENTS II INC., GREENPOINT MTA TRUST 2005-

1 AR3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR3, and its successors
2 and/or assignees (“EMC MORTGAGE”), has filed the attached Motion For Relief From The
3 Automatic Stay (the “Motion”) in the above-entitled and numbered Chapter 13 case as the Debtors
4 have failed to make post-petition payments.

5 This Motion is based upon the attached Declaration and the Memorandum of Points and
6 Authorities attached hereto, as well as upon the documents filed in support of the Motion.

7 | DATED: September 8, 2009

Respectfully Submitted,

MALCOLM ♦ CISNEROS, A Law Corporation

By: /s/ William G. Malcolm
WILLIAM G. MALCOLM
Attorneys for Movant